

Filed 5/28/19 In re Julie P. CA2/1

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.
---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re JULIE P. et al.,

Persons Coming Under the  
Juvenile Court Law.

B291539

(Los Angeles County  
Super. Ct. No. DK17997)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

PAULINA P.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles  
County, D. Zeke Zeidler, Judge. Affirmed.

Cristina Gabrielidis, under appointment by the Court of  
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Jeanette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent.

---

Paulina P. (Mother) appeals from jurisdiction/disposition orders sustaining a subsequent petition (Welf. & Inst. Code, § 342),<sup>1</sup> declaring her two children, 13-year-old Julie P. and four-year-old Andrew C., dependents of the court and removing them from her custody. She contends the trial court erred, in that there was no substantial evidence that the children were currently at risk of harm from Mother. We affirm.

## **BACKGROUND**

### **I. The Original Section 300 Petition**

On June 22, 2016, the Department of Children and Family Services (DCFS) filed the original section 300 petition against Mother and Andrew's father, G.C. (Father),<sup>2</sup> alleging that Father sexually abused Julie, and Mother failed to protect the children. (*Id.*, subds. (b), (d) & (j).) The juvenile court sustained the petition as amended on August 24, 2016. The court placed the children with Mother under DCFS supervision. It ordered that

---

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

<sup>2</sup> Father is not a party to this appeal. Neither is Julie's alleged father, who had been deported from the United States and whose address was unknown.

Father have monitored visitation with Andrew and no contact with Julie.

On August 25, 2017, the juvenile court ordered the children placed in the home of the parents, conditioned on the parents continuing to comply with their case plans and Father not residing in the same home as Julie.

## **II. The Section 342 Subsequent Petition**

DCFS filed the section 342 subsequent petition on April 16, 2018.<sup>3</sup> The petition alleged that on March 3, Mother “engaged in violent and assaultive behavior in the presence of the children,” while holding four-year-old Andrew. Mother scratched and pushed the maternal grandmother, Maria P., and the maternal aunt, 15-year-old S.P. This behavior endangered the children’s physical health and safety, created a detrimental home environment, and placed the children at risk of serious physical harm. (§ 300, subds. (a), (b); counts a-1, b-3.)

The section 342 petition also alleged that Mother was a current abuser of alcohol, which rendered her incapable of providing regular care for the children. At the time of the March 3 incident, Mother was under the influence of alcohol in the children’s presence. This endangered the children’s physical health and safety and placed them at risk of serious physical harm. (§ 300, subd. (b); count b-1.) Additionally, she had allowed Andrew to be transported in a car while he was not secured in a

---

<sup>3</sup> DCFS filed an amended section 342 petition on July 2, 2018. It was substantially unchanged from the April 16 petition as to the allegations under subdivisions (a) and (b) of section 300. The allegations under subdivision (j) were deleted.

car seat. Again, this endangered the children's physical health and safety. (§ 300, subds. (b), (j); counts b-2, j-1.)

The children's social worker (CSW) reported that on March 20, 2018, she received a call from someone who stated that Julie had texted her and was trying to get in touch with her. Julie told her that she and Andrew had gone on an outing with Mother on March 3. As they were going to the Metro station to return home, Mother told her to get in the car of a man whom she had met before but whose name she did not know. There was no car seat for Andrew in the car. They all went to dinner. Mother had a few shots of alcohol. Mother encouraged the man to drink, but he declined. When they left the restaurant at about 11:00 p.m., Mother was intoxicated. As they were driving, Mother grabbed the steering wheel and said that she wanted to go to the man's house. The man told her that the children needed to go to their own home.

When they arrived at the home they shared with Maria P. and S.P., Julie went inside, woke Maria P., and told her that Mother had been drinking. Mother was still outside, holding Andrew, who was not dressed appropriately for the cold weather. Maria P. tried to take Andrew from Mother, but Mother would not allow it. Mother was belligerent. S.P. tried to diffuse the situation, but Mother lunged at her and scratched her neck. Maria P. called law enforcement.

Natalie Demus, the therapist involved in Mother and Father's conjoint counseling, sent DCFS a letter stating that there were additional family problems which warranted keeping the case open another six months to one year. It did not appear that Mother was managing the stressors in her life very well, and Mother would benefit from individual therapy and drug and

alcohol counseling; Mother needed to develop a better understanding as to the impact of her behavior on her children.

The CSW went to Mother's home on March 30. Mother said that on March 3, she and her children went out to dinner with a male friend, whom she refused to identify. She had two or three drinks, but she was not drunk. When they arrived home, she got into an argument with Maria P. and S.P., who were being very aggressive, trying to take Andrew from her by force. They were pulling on his arms; he was screaming and crying. Mother denied hitting or scratching them on purpose. Mother acknowledged conflicts in the home due to other family members telling her how to raise her children. She was hoping to move out of the family home and was looking for a new place to live.

As to Andrew not having a car seat, Mother explained that her male friend had offered them a ride home, and he did not have a car seat in his car. When the CSW explained that the law required Andrew to ride in a car seat, Mother argued that when she took the children on the bus, she did not use a car seat. Mother did not see any difference between riding in a car and on a bus.

Mother denied grabbing the steering wheel while the car was moving. She also denied having a drinking problem. She refused to do alcohol testing on the ground there was no need for it.

The CSW interviewed Julie; the interview was in Mother's presence at Mother's request. According to Julie, Mother had three or four drinks at dinner. On the way home, Mother started fighting with the man, asking him to take them to his house. The man refused and dropped them off near their home. Julie knew

that Mother was drunk, because Mother was walking faster than usual.

It was a cold night, and Andrew did not have a sweater. Julie tried to take him inside the home, but Mother did not let her do so. Julie went inside and told Maria P. that Mother was outside and was drunk. Maria P. went outside. Julie heard her arguing with Mother and went outside. She saw Mother and Maria P. fighting. Maria P. called the police, who came to the home and calmed Mother and Maria P. down. After the police left, everyone went inside and went to sleep.

Before the March 3, 2018 incident, the last time Julie saw Mother drinking was in 2016, when Father molested Julie. Julie had not seen Mother drink alcohol since March 3. Julie was upset with Mother, because Mother “had promised she will never drink again.” Julie thought things would be better if she stayed with Maria P.; then Mother and Andrew could live with Father.

The CSW asked Mother if she had talked to Julie about the molestation. Mother responded that she had, but Julie was always upset and always listened to Maria P. The CSW tried to explain to Mother that Julie associated Mother’s drinking with her molestation; when Julie was in the car with a man she did not know and mother had been drinking, Julie feared the molestation could happen again. Mother responded that Julie could do whatever she wanted. According to the CSW, “Mother’s demeanor was very defensive”; Mother “was unable to understand or verbalize how her actions were inappropriate and have affected Julie.”

The CSW spoke to Maria P. about the March 3 incident. Maria P. reported that Mother was outside with Andrew; he had no sweater and it was too cold for him to be outside without

proper clothes. She went outside to get Andrew, but Mother would not let go of him. When Maria P. and S.P. tried to take Andrew out of Mother's arms, Mother began pushing and scratching to keep them away. Maria P. did not know if Mother scratched her and S.P. on purpose.<sup>4</sup>

The CSW returned to the home on April 12, 2018. She had a warrant to take the children into custody. The CSW tried to explain why she was taking the children, but Mother responded that she did not pose a risk of physical harm to the children. The CSW said that Mother would be provided with additional details in the detention report. Mother said she did not want to go through dependency proceedings again, and she did not want to complete anymore classes; she preferred to give custody of the children to her relatives.

The CSW spoke with Mother and eventually called the police. At that point, Mother allowed Father to take Andrew; the CSW canceled her call to the police. The CSW told Mother she could not live in the home with Julie. Mother packed some things, and the CSW drove Mother to a friend's home.

At the detention hearing on April 17, 2018, the juvenile court indicated that Mother was in the courthouse in the anteroom; she was upset and complaining. The bailiff asked her to step into the waiting area, and she refused. Eventually, sheriff's deputies removed her from the anteroom and placed her under arrest. In Mother's absence, the court found a prima facie case for the children to be detained from Mother. The court ordered Julie placed with Maria P. and Andrew placed with

---

<sup>4</sup> S.P. confirmed that Mother scratched her on the neck during the incident.

Father. The court ordered a “detention rehearing” on April 20, the date a status review hearing had previously been scheduled.

The status review report, which had been filed on March 29, before the children were detained, noted that Mother had complied with all court-ordered programs and had made significant improvement in her parenting practices. However, the CSW expressed concern that Mother was exercising poor judgment which placed the children at risk. This concern was based on Mother taking the children to Mexico without court consent and the March 3 incident.

Mother attended the April 20, 2018 “detention rehearing.” Her counsel noted that March 3 “was an isolated incident. . . . [M]other is apologetic for it. It’s not going to occur again. So she would be asking for release, and she is going to comply with any mental health classes and any orders that [DCFS] puts forth.” DCFS reiterated its position that the children were at risk if they remained with Mother. The juvenile court ruled that the detention findings and orders would remain unchanged.

### **III. Jurisdiction/disposition Hearing**

The July 2, 2018 jurisdiction/disposition reports contained the results of a dependency investigator’s (DI) interview with Julie, without Mother present. Julie stated that Mother had arranged ahead of time to meet the man with the car; Julie thought his name was O. O. drove them to a restaurant, where Mother drank three double shot glasses containing a clear liquid. Mother got upset when O. refused to drink with her. Julie told Mother to stop, but Mother “kept telling [Julie] to shut up.”

Julie noticed Mother was drunk when they were walking back to O.’s car. Mother was pushing Andrew across the street in



his stroller, and “[s]he was walking fast.” Julie was worried about Andrew and asked if she could push the stroller. Mother said “no,” but Julie “ended up pushing it still.”

Julie recounted: “Then we got in O[.]’s car again, and my mom tried to grab the steering wheel. She was saying, ‘See, I could drive!’ She didn’t do this the whole way home but she did it a few times. I kept telling her to stop, but she just kept telling me to shut up.” O. offered to get coffee for Mother, but she told him to take her to his house.

Once they got near Mother’s home, Mother and O. got out of the car. O. tried to get Mother to go inside but she refused. Julie asked if she could take Andrew inside, but Mother told her no. Mother started chasing after O.; Julie ran toward the front door with Andrew. Mother demanded that Julie give Andrew back to her. Julie was worried about Andrew because it was cold, and he did not have a sweater. She went in the house and woke Maria P. Maria P. grabbed a blanket to wrap around Andrew; she and S.P. went outside to get him. Julie thought that was when Mother scratched Maria P.; Julie saw scratches on her arm and neck.<sup>5</sup>

Julie told the DI that she had seen Mother drink alcohol “a long time ago,” but she could not recall seeing Mother drunk.

The DI attempted to speak with Mother, but Mother stated that she had already said everything she had to say to the CSW.

The DI spoke to Father, who reported that on March 3, Mother said she would let him know when he could pick up Andrew. About 1:30 a.m., O., who was Mother’s ex-boyfriend, called Father on Mother’s phone, telling him to come get Andrew

---

<sup>5</sup> Julie did not mention seeing scratches on S.P.’s neck.

because Mother would not let him go inside the house. Father called Mother's uncle, who lived nearby, to check on Andrew, because Father was not allowed to be near Julie. When Father later asked Mother to explain what happened that day, Mother "just said it was a lie and she didn't want to talk about it." Father said that Andrew had not talked about what happened, but after the incident he was afraid to get into Father's car. It took a while before Andrew was no longer afraid.

Father believed that Mother needed mental health services for various issues. He added that at the April 17, 2018 detention hearing, Mother acted aggressively and wanted to get into the courtroom; she was so persistent that she ended up in handcuffs. Father also expressed concern that Mother had taken the children to Mexico and had no plan on how to get home. When Father learned that she was there, he attempted to call her, but she turned off her phone. She eventually contacted him for money to get back home; he sent it to her.

The DI spoke with Maria P. who confirmed that Mother had scratched her and S.P. during the March 3 incident. Maria P. believed Mother started having mental health problems when the children were originally removed from her custody. However, Maria P. denied that Mother had a problem with alcohol, stating that March 3 was the only time she had seen Mother intoxicated.

The DI also spoke to Demus, who said she believed Mother "may have alcoholic tendencies." She explained that Mother had stated that she turned to alcohol when she "got stressed out."

DCFS added that "it appears as though mother has had longstanding alcohol abuse issues." In 2010, Mother was convicted of a hit and run causing death or injury (Veh. Code, § 20001, subd. (a)); in 2011, Mother was convicted of disorderly

conduct involving drugs or alcohol (Pen. Code, § 647, subd. (f)). DCFS also noted recent instances of erratic behavior by Mother; in one instance, Mother appeared to be under the influence of some substance when she met with the CSW.

DCFS recommended that Mother receive an Evidence Code section 730 evaluation, as well as a psychiatric evaluation. It recommended that she receive counseling to address case issues, including alcohol abuse and coping techniques, and that she submit to drug and alcohol testing.

In a July 2, 2018 last minute information for the court, the DI reported that Mother submitted to a random drug and alcohol test on June 19; the results were negative. Mother called the DI on June 26 to ask questions about the jurisdiction/disposition report. Mother said it did not make sense to her. She asked why Demus's statement was taken but not hers. The DI reminded Mother that Mother refused to meet with her. Mother asked why she had to drug and alcohol test. The DI reminded her of the allegations of the subsequent petition and the concerns regarding alcohol abuse. Mother stated, "Maybe it is mental health problems that I'm having" as well."

DCFS also reported on several incidents that happened during Mother's visitation with Andrew. In one, on June 22, Mother "abruptly picked Andrew up, went to the receptionist and had the receptionist call the CSW to let the CSW know that Andrew did not want to" go back to his home with the monitor. Mother continued holding Andrew while discussing the matter with the monitor. A security guard intervened. Andrew was confused by the incident.

Father told the DI about an incident in which he and Mother took Andrew to a restaurant. Mother told him she would

meet him at another location and she left. When he went to meet her, she was not there. After she returned, Father drove her home. Mother did not want to go inside and locked herself in the car. Then she sat in the trunk for two hours. He called law enforcement. On their advice, he left Mother and went home.

At the July 2, 2018 jurisdiction/disposition hearing, there was no testimony. Mother submitted the results of additional drug and alcohol tests into evidence, as well as documents regarding her participation in a parenting class, individual counseling and Alcoholics Anonymous.

The juvenile court found by a preponderance of the evidence that the allegations in counts a-1 and b-1 through b-3 were true, and the children were persons described by section 300, subdivisions (a) and (b).

At that point, Father requested that jurisdiction be terminated as to Andrew, and that Andrew be placed in his custody pursuant to a Family Law order. Mother requested that the children be returned to her and the case remain open. Mother proposed that she move back into Maria P.'s home with Julie and Andrew. Maria P. could provide additional supervision, and Mother agreed to continue with individual counseling, drug and alcohol testing, and participation in Alcoholics Anonymous.

The court found by clear and convincing evidence remaining in the home with Mother would pose a substantial risk of danger to the children's physical health and safety and their physical and emotional well-being. The court declared the children to be dependents of the court. The court placed Julie under DCFS supervision and ordered her suitably placed. The court ordered Andrew placed with Father. Finding that Andrew was no longer at risk, the court terminated jurisdiction over him,

with a custody order giving Father legal and physical custody over Andrew.

Mother timely appealed.

## DISCUSSION

### I. Standard of Review

We review the juvenile court’s jurisdictional findings and disposition “ ‘to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.’ [Citations.]” (*In re R.T.* (2017) 3 Cal.5th 622, 633; accord, *In re Quentin H.* (2014) 230 Cal.App.4th 608, 613.)

“Substantial evidence is relevant evidence which adequately supports a conclusion; it is evidence which is reasonable in nature, credible and of solid value.” (*In re R.C.* (2012) 210 Cal.App.4th 930, 941; accord, *In re Roxanne B.* (2015) 234 Cal.App.4th 916, 920.) “ ‘The ultimate test is whether it is reasonable for a trier of fact to make the ruling in question in light of the whole record. [Citations.]’ [Citation.]” (*In re D.P.* (2015) 237 Cal.App.4th 911, 918; *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.)

## II. Jurisdictional Findings

“A child may be adjudged a dependent of the court under subdivision (b)<sup>[6]</sup> of section 300 if the ‘child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child.’ (§ 300, subd. (b)(1).) . . . ‘The three elements for jurisdiction under section 300, subdivision (b) are: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) “serious physical harm or illness” to the [child], or a “substantial risk” of such harm or illness.’” [Citation.] “The third element, however, effectively requires a showing that *at the time of the jurisdictional hearing* the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur).” ’ [Citation.] Evidence of past conduct may be probative of current

---

<sup>6</sup> Although the juvenile court sustained counts under both subdivisions (a) and (b) of section 300, there is a degree of overlap in the counts. We focus on subdivision (b), because the counts under this subdivision involved the allegations of an altercation, alcohol abuse, and failure to use a car seat. Subdivision (a) involved only allegations of an altercation. “‘When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the [trial] court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.’ [Citation.]” (*In re Drake M.*, *supra*, 211 Cal.App.4th at p. 762.)

conditions. [Citation.] To establish a defined risk of harm at the time of the hearing, there ‘must be some reason beyond mere speculation to believe the alleged conduct will recur. [Citation.]’ [Citation.]” (*In re D.L.* (2018) 22 Cal.App.5th 1142, 1146.)

As Mother notes, “[s]ubdivision (b) means what it says. Before courts and agencies can exert jurisdiction under . . . subdivision (b), there must be evidence indicating that the child is exposed to a *substantial* risk of *serious physical* harm or illness,” and that the risk exists “*at the time of the hearing.*” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 823-824; accord, *In re Isabella F.* (2014) 226 Cal.App.4th 128, 140.) The substantial risk of harm required for jurisdiction under section 300, subdivision (b), is risk which arises as the result of the conduct of the allegedly offending parent. (*In re V.M.* (2010) 191 Cal.App.4th 245, 252-253; *In re James R.* (2009) 176 Cal.App.4th 129, 136-137.)

Mother first asserts there was no substantial evidence to support findings that she had an alcohol abuse problem or that she was drunk on March 3, 2018. We disagree.

We acknowledge the evidence in the record which supports Mother’s position. While Julie stated that Mother was drunk on March 3, 2018, she was unable to articulate a basis for her belief other than that Mother was walking faster than usual. Julie had not seen Mother drink alcohol for about two years prior to the incident, and Julie had not seen Mother drunk since then. Maria P. similarly denied that Mother had a problem with alcohol, stating that March 3 was the only time she had seen Mother intoxicated. Mother subsequently tested negative for drugs and alcohol.

Nonetheless, the question before us is not “whether there is evidence from which the juvenile court could have drawn a different conclusion but whether there is substantial evidence to support the conclusion that the court did draw. [Citation.]” (*In re M.R.* (2017) 8 Cal.App.5th 101, 108; accord, *In re F.S.* (2016) 243 Cal.App.4th 799, 813.)

There was substantial evidence that Mother had recurrent problems with substance abuse. She had a 2011 criminal conviction that involved drug or alcohol use. Julie recalled last seeing Mother drinking in 2016, when Father molested Julie. According to Julie, at that time Mother “had promised she will never drink again.” Demus told DCFS she believed Mother “may have alcoholic tendencies”; Mother had stated that she turned to alcohol when she “‘got stressed out.’”

Despite Mother’s protestations to the contrary, there was substantial evidence that Mother was drunk on March 3, 2018, and she placed the children at risk of serious physical harm because she was drunk. Julie observed Mother have several drinks during dinner with O. Mother kept trying to get O. to drink as well. After they left the restaurant and went to O.’s car, Julie was sufficiently worried by the way in which Mother pushed Andrew’s stroller across the street that she tried to get Mother to let her push the stroller. Julie recounted that Mother kept trying to grab the steering wheel while O. was driving. Andrew was not in a car seat at the time. Mother’s behavior put both children at risk of serious physical harm if she caused O. to drive erratically or caused an accident.

Julie stated that O. offered to get coffee for Mother; a reasonable inference is that O. recognized that Mother was drunk



and wanted to help her get sober. Again, this evidence supports a finding that Mother was drunk.

Once they reached home, Mother insisted on keeping Andrew outside in the cold. This concerned Julie, Maria P. and S.P., who attempted to take him inside. It also resulted in an altercation between Mother and Maria P. and S.P. Mother was holding Andrew in her arms at the time. Mother scratched Maria P. and S.P. Andrew could have been scratched or dropped during this altercation.

Mother attempts to place the blame for the altercation on Maria P. and S.P., claiming they “admitted they were the aggressors in trying to remove Andrew from Mother’s arms.” (Boldface omitted.) However, it is reasonably inferable from the evidence that Maria P. and S.P. were attempting to take Andrew to protect him from the cold, for which he was not dressed. Mother stubbornly refused to let anyone take Andrew inside because she was drunk and insisted on keeping him with her, despite the cold.

A parent’s alcohol use, in and of itself, is not sufficient to support a jurisdictional finding. Substance use is not “ ‘substance abuse.’ ” (*In re Drake M.*, *supra*, 211 Cal.App.4th at p. 764.) Section 300, subdivision (b), “is clear, however, jurisdiction based on ‘the inability of the parent or guardian to provide regular care for the child due to the parent’s . . . substance abuse,’ must necessarily include a finding that the parent at issue is a substance *abuser*. [Citation.] . . . [W]ithout more, the mere usage of [alcohol] by a parent is not a sufficient basis on which dependency jurisdiction can be found. [Citations.]” (*Id.* at pp. 764-765; see *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1217-1219.) The parent’s current alcohol abuse must cause

the parent to neglect or endanger the child. (*In re Destiny S.* (2012) 210 Cal.App.4th 999, 1004.)

Substantial evidence supports the finding that Mother was an alcohol abuser, and her alcohol abuse placed the children at risk of serious physical harm. She demonstrated that during the March 3, 2018 incident, when she was drunk while the children were in her care, she endangered their safety in O.'s car on the way home, and she endangered their safety when she got into a fight with her mother and sister when they tried to take Andrew inside to keep him safe. Accordingly, substantial evidence supports the finding of jurisdiction. (*In re Drake M., supra*, 211 Cal.App.4th at p. 763.)

## **II. Disposition**

Once jurisdiction is established, “ ‘the court must conduct a dispositional hearing. [Citation.] At the dispositional hearing, the court must decide where the child will live while under the court’s supervision.” [Citation.] “A removal order is proper if based on proof of parental inability to provide proper care for the child and proof of a potential detriment to the child if he or she remains with the parent. [Citation.] ‘The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.’ [Citation.] The court may consider a parent’s past conduct as well as present circumstances.” ’ [Citation.]” (*In re Lana S.* (2012) 207 Cal.App.4th 94, 105.)

Under section 361, subdivision (c)(1), the finding of potential detriment must be by clear and convincing evidence. “ ‘Clear and convincing evidence requires a high probability, such that the evidence is so clear as to leave no substantial doubt.’

[Citation.] [¶] [J]urisdictional findings are prima facie evidence the child cannot safely remain in the home. (§ 361, subd. (c)(1).)” (*In re A.E.* (2014) 228 Cal.App.4th 820, 825-826.)

The record shows that even after the March 3, 2018 incident, which formed the basis for the section 342 petition and constituted a prima facie case for removal, Mother continued to engage in erratic and potentially dangerous behavior. At the detention hearing on April 17, 2018, sheriff’s deputies had to remove Mother from the court anteroom and place her under arrest because she refused to leave, even after the bailiff asked her to do so.

On several occasions in March and April 2018, Mother went to the home of a paternal relative, demanding information about Father, demanding to speak with him or with the relative. During the April incident, Mother stood outside the home, yelling.

There were also two incidents that occurred during visitation with Andrew. On June 22, 2018, Mother picked Andrew up, took him to the receptionist area, and had the receptionist tell the CSW that Andrew did not want to go back home with the monitor. Mother discussed the matter with the monitor while still holding Andrew, and a security guard was called to intervene.

In a second and more disturbing incident, Mother was visiting with Andrew and Father at a restaurant. Mother abruptly left, telling Father she would meet him at another location. She failed to do so. After she contacted Father and he drove her home, Mother said she did not want to go inside and locked herself in the car. Then she sat in the trunk for two hours. Father called law enforcement and ultimately left her in the car.

The June 22 incident was reminiscent of the March 22 incident and could likewise have ended in an altercation while Mother was holding Andrew. Mother's erratic behavior requiring the intervention of law enforcement, both when Andrew was present with her and when he was not, supported a finding that Mother was unable to provide proper care for the children and there was a potential for detriment to the children if they remained in her care. (*In re Lana S.*, *supra*, 207 Cal.App.4th at p. 105.)

Mother argues that "[t]he actual harm created by removing the children, particularly Andrew, from Mother was more serious than the speculative harm the juvenile court sought to prevent." Mother relies on *In re Kristin H.* (1996) 46 Cal.App.4th 1635, in which the court observed that "[o]ften the harm created by removing a child from its parents may be more serious than the harm which the state intervention seeks to prevent . . . because the courts lack the ability to insure that the placement is superior to the child's own home . . . ." (*Id.* at p. 1657.) Here, however, Andrew was placed with his father, and Julie was placed with her maternal grandmother. Andrew spent weekends at the maternal grandmother's house with his sister. Julie expressed a preference to live with her maternal grandmother. Andrew was unable to give a statement, but he did indicate that he likes to be with his father. DCFS had no concerns about Andrew's safety and well-being in Father's home. Thus, Mother's argument is unsupported by the record in this case.

Mother also claims that "[t]he children could have remained with Mother under stringent conditions of supervision by DCFS such as unannounced visits" or in-home counseling services. (See, e.g., *In re Henry V.* (2004) 119 Cal.App.4th 522,

529.) This claim ignores the record, which indicates that Mother proved unreceptive to DCFS assistance that might have prevented the children's removal. Mother initially denied any wrongdoing when she spoke to the CSW on March 30, 2018. On April 12, Mother told the CSW that she would not complete any additional classes and would give custody of the children to Maria P. and Father. She repeated this position on May 10, adding that she no longer wanted to visit with Andrew. On May 13, however, Mother changed her mind and said she wanted to visit with the children. On June 5, Mother refused to speak to the DI regarding the case.

Mother claims she "was willing and able to participate in further services," but the only evidence she cites in support of this claim is a June 29 letter she wrote stating that she "[had] been attending AA-Attitude Adjustment meetings . . . . The group meetings have educated and informed about how can each individual can positively impact the family, friends and the community." There is nothing in this letter as to how long she had been participating in AA. She does not accept responsibility for her actions or indicate her willingness to participate in programs or take other actions DCFS or the court deemed necessary to ensure the safety of her children. (See *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197 ["[o]ne cannot correct a problem one fails to acknowledge"].)

The juvenile court reasonably found that remaining in the home with Mother would pose a substantial risk of danger to the children's physical health and safety and their physical and emotional well-being. (*In re D.P.*, *supra*, 237 Cal.App.4th at p. 918; *In re Drake M.*, *supra*, 211 Cal.App.4th at p. 763.) Substantial evidence thus supports the disposition order. (*In re*

*R.T., supra*, 3 Cal.5th at p. 633; *In re Quentin H., supra*, 230 Cal.App.4th at p. 613.)

## DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

LEIS, J.\*

---

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.